

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

August 12, 2010

In the Matter of EDWARDS, Minors.

No. 295963

Wayne Circuit Court

Family Division

LC No. 08-478151-NA

Before: WILDER, P.J., and CAVANAGH and SAAD, JJ.

PER CURIAM.

Respondent mother appeals a trial court order that terminated her parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i), (g), and (j).¹ For the reasons set forth below, we affirm. This appeal is decided without oral argument pursuant to MCR 7.214(E).

To terminate parental rights, the trial court must find that the petitioner proved by clear and convincing evidence at least one of the statutory grounds for termination set forth in MCL 712A.19b(3), and that termination is in the best interest of the children. MCL 712A.19b(5); *In re Sours*, 459 Mich 624, 632-633; 593 NW2d 520 (1999). We review for clear error the trial court's decision to terminate parental rights. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 355-357; 612 NW2d 407 (2000); *In re Sours*, 459 Mich at 632-633. A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003); *In re Miller*, 433 Mich 331, 337; 455 NW2d 161 (1989). Deference is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. MCR 2.613(C); *In re Miller*, 433 Mich at 337.

Termination of parental rights is proper under MCL 712A.19b(3)(c)(i) and (g) because the conditions that led to the adjudication continued to exist and because respondent was unable to provide proper care and custody of the children. The children came to the trial court's attention because of the deplorable living conditions in their home and respondent's history of domestic violence with the children's father. Respondent never properly addressed these issues. At the time of the termination hearing, respondent had not demonstrated the ability to maintain

¹ The parental rights of the children's father were not terminated, and he is not a party to this appeal.

suitable, safe housing for herself and her children and respondent had not completed domestic violence counseling.

Respondent was also unable to provide proper care and custody of her children because she has a substance abuse problem that she never adequately resolved. Respondent did not regularly submit drug screens, several of her drug screens were positive for alcohol, and two drug screens were positive for opiates. Respondent often smelled of alcohol during meetings with the caseworker. Though respondent voluntarily and independently entered in-patient substance abuse services, she did not complete treatment and signed herself out of the program against the advice of the staff. Accordingly, respondent failed to demonstrate that she addressed her substance abuse problem or that she could provide proper care for her children.

Respondent also failed to comply with her treatment plan. She did not finish counseling and parenting classes, she failed to establish a legal source of income, and she did not provide proof of her psychiatric treatment to demonstrate that she could properly care for her children. Although she claimed to have completed services independently, respondent would not cooperate with the caseworker and this prevented the caseworker from verifying respondent's efforts. Because respondent was unable to rectify the issues in the 20 months that her children were removed from her care, it is not reasonable to assume they will be rectified soon.

Pursuant to MCL 712A.19b(3)(j), respondent's failure to complete and benefit from her treatment plan is evidence that the children would be at risk of harm if returned to respondent's care. The children would also be at risk if returned to respondent's care because of her history of untreated drug and alcohol abuse. The record does not support respondent's claim that the trial court decided not to terminate her parental rights to an older child, CB, because she did not pose a risk of harm. The trial court found statutory grounds to terminate respondent's parental rights to CB, but distinguished his case from that of his five younger half-siblings because CB was almost 14 years old and did not wish respondent's parental rights to be terminated. Therefore, the court did not find it in the best interests of CB to abrogate the desires of a child his age. CB, however, was not returned to respondent's custody.

The trial court also did not err in its best interests determination regarding the five children at issue in this appeal. MCL 712A.19b(5); MCR 3.977(J). It is in the children's best interest to be in a drug-free, safe environment, and respondent has not demonstrated that she can provide one. Respondent was unable to meet the children's most basic needs for appropriate housing. During the year-and-a-half the children were in the care of relatives, respondent was unable to provide for herself, let alone six children, and she failed to overcome her significant substance abuse problems.

Affirmed.

/s/ Kurtis T. Wilder
/s/ Mark J. Cavanagh
/s/ Henry William Saad